

FCC MAIL SECTION
Federal Communications Commission

DA 98-241

FEB 17 8 50 AM '98

Before the
Federal Communications Commission
Washington, D.C. 20554
DISPATCHED

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 96-202
Table of Allotments,)	RM-8879
FM Broadcast Stations.)	RM-8963
(Mount Vernon, Stanford and Brodhead,)	RM-8964
Kentucky) ¹)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: February 4, 1998;

Released: February 13, 1998

By the Chief, Allocations Branch:

1. At the request of Rock Communications of Mount Vernon ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 11 FCC Rcd 12690 (1996), proposing the allotment of Channel 270A at Mount Vernon, Kentucky, as the community's second local FM transmission service (RM-8879). Vernon R. Baldwin filed comments in support of the Mount Vernon proposal stating his intention to apply for the channel, if allotted. Petitioner filed comments and a counterproposal proposing the allotment of Channel 270A at Brodhead in lieu of Mount Vernon, Kentucky, as the community's first local aural transmission service (RM-8963). Petitioner states its intention to apply for the channel, if allotted to Brodhead. Williams Communications, Inc. ("WCI") filed comments and a counterproposal proposing the allotment of Channel 270A at Stanford, Kentucky, as the community's second local FM transmission service (RM-8964).² Reply comments were filed by petitioner and WCI. For the reasons discussed below, we will allot Channel 270A at Brodhead, Kentucky, as the community's first local aural transmissi¹ service.

2. In its counterproposal and reply comments, petitioner states that Brodhead is an incorporated community with a 1990 U.S. Census population of 1,140 persons. It has a mayor, a four-member city council, a police department, a volunteer fire department, and a post office. Petitioner further states that Brodhead has a bank, churches, a nursing home, a grocery store, construction companies, a landscaping company, flower shops, a bridal boutique, convenience

¹The communities of Stanford and Brodhead, Kentucky, have been added to the caption.

²The counterproposals were placed on Public Notice on December 5, 1996, Report No. 2168.

stores, restaurants, a video store, beauty salons, craft shops, an agriculture equipment supply store, feed mills, video arcades, a funeral home, gas stations, roofing companies, auto body shops, a car clean-up shop, a car wash, and a hardware store. Brodhead has an elementary school, waste water treatment plant, and a cable television service. Petitioner argues that a first local service at Brodhead is preferred over a second local FM service at Stanford, Kentucky, since it fulfills FM allotment priority (3), citing Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88 (1982).

3. In its comments and counterproposal, WCI states that the allotment of Channel 270A at Stanford, Kentucky, as its second local FM transmission service and its third local aural service, would better serve the public interest than the allotment of the same channel to Mount Vernon, Kentucky.³ In its reply comments, WCI opposes petitioner's counterproposal to allot Channel 270A at Brodhead in lieu of Mount Vernon, Kentucky, as the community's first local aural transmission service. WCI asserts that Brodhead is the functional equivalent of Mount Vernon, the community originally proposed by petitioner. As such, WCI contends that the needs of Brodhead are not separate and distinct from those of Mount Vernon. WCI further states that the center of Brodhead is located only 5.5 miles from the center of Mount Vernon.

4. Based on the information before us, we find that petitioner has sufficiently demonstrated that Brodhead is a "community" for allotment purposes. While we believe that both Brodhead and Stanford are deserving of a Class A allotment, a staff channel search reveals that only Channel 270A can be allotted at either Brodhead or Stanford, Kentucky. Therefore, we must base our decision on the allotment priorities set forth in the Revision of FM Assignment Policies and Procedures, *supra*, as follows:

- (1) First full-time aural service;
- (2) Second full-time aural service;
- (3) First local service; and
- (4) Other public interest matters.

[Co-equal weight given to priorities (2) and (3)].

The allotment of Channel 270A to either Brodhead or Stanford would not provide a first or second full-time aural service. However, the allotment of Channel 270A at Brodhead would provide a first local service, fulfilling priority (3), whereas the allotment of Channel 270A at Stanford would provide a second local FM service, fulfilling priority (4). Therefore, we believe

³In view of petitioner's counterproposal requesting the allotment of Channel 270A at Brodhead in lieu of Mount Vernon, it is no longer necessary to evaluate the merits of the Mount Vernon and Stanford, Kentucky proposals. Furthermore, the action taken in this proceeding makes WCI's opposition to the Mount Vernon proposal moot. Accordingly, WCI's comments regarding the Mount Vernon allotment will not be discussed.

the public interest would be served by allotting Channel 270A at Brodhead, Kentucky, as the community's first local aural transmission service. An engineering analysis has determined that Channel 270A can be allotted to Brodhead in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.2 kilometers (2.6 miles) southwest to avoid a short-spacing to the licensed site of Station WLJC(FM), Channel 271A, Beattyville, Kentucky.⁴

5. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective March 30, 1998, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Brodhead, Kentucky	270A

6. A filing window for Channel 270A at Brodhead, Kentucky, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

7. IT IS FURTHER ORDERED, That the proposal filed by Rock Communications of Mount Vernon (RM-8879), requesting the allotment of Channel 270A at Mount Vernon, Kentucky, IS DISMISSED, as moot.

8. IT IS FURTHER ORDERED, That the counterproposal filed by Williams Communications, Inc. (RM-8963), requesting the allotment of Channel 270A at Stanford, Kentucky, IS DENIED.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

⁴The coordinates for Channel 270A at Brodhead are North Latitude 37-22-29 and West Longitude 84-26-41.

10. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau